

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI**

**BEFORE,  
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.974/Del/2023  
(ASSESSMENT YEAR 2018-19)**

Dy.CIT Central Circle-29 New Delhi	Vs.	M/s Surya Kiran Finance Corporation 43/1, Rajpur Road, North Delhi, Majnu Ka Tilla Area Central Delhi-110054 PAN-ABGFS7841A
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. T.M. Shivakumar, Adv. & Ms. Kirti Kishore, Adv. Ms. Vanshika, AR
Respondent by	Sh. Anuj Garg, Sr. DR

Date of Hearing	29/04/2024
Date of Pronouncement	03/05/2024

**ORDER**

**PER S.RIFAUH RAHMAN, AM:**

This appeal has been filed by the Revenue against the order of Learned Commissioner of Income Tax (Appeals)-30, New Delhi ["Ld. CIT(A)", for short], dated 04/01/2023 for Assessment Year 2018-19.

2. The brief facts of the case are, the assessee filed its return of income for Asst. Year 2018-19 on 25/10/2019 declaring loss of Rs.4,07,81,078/-. The case was picked up for complete scrutiny under CASS. The reason for scrutiny selection were 'High Ratio' of refund to 'TDS' and "Large squared up loans during the year. Accordingly, notices u/s 143(2) and 142(1) were issued along with questionnaire and served on the assessee through ITBA portal.

3. The assessee is a partnership firm and functions as a Non Banking Finance Company. When the assessee was asked to submit the detailed note/explanation on the reason for selection of scrutiny. In this regard, the assessee has submitted various details as called for. After considering the detailed submissions of the assessee, the Assessing Officer observed that the assessee company had made full repayments of unsecured loans outstanding as on 31/03/2017 during the current Asst. Year along with accrued interest. Further, he observed that during the previous financial year, the assessee was having unsecured cash earned by it through undisclosed source of income and this cash was paid by the assessee to operator of bogus accommodation entry providers

namely KVM Fashions Pvt. Ltd. and M/s Tirupati Trading Company. With the above observation, the Assessing Officer came to the conclusion that assessee in actual was not having any liability with respect to above said two accommodation entries. With the above observation, he came to the conclusion that assessee is real owner of the unexplained cash amount paid to these parties. Since, the assessee was not able to provide any explanation, he proceeded to make the above said addition u/s 69A of the Act.

4. Aggrieved, with the above order, the assessee preferred an appeal before the Ld. CIT(A)-30, New Delhi. Before him, the assessee has filed detailed submissions. After considering the detailed submissions of the assessee, the Ld. CIT(A) given substantial relief to the assessee by deleting the addition of Rs.1,57,42,260/- and sustained the addition of Rs.8,74,134/-.

5. Aggrieved with the above order, the Revenue is in appeal before us, raising the following grounds of appeal:

*“1. Whether in the facts and circumstances of the case, the Ld. CIT(A) has erred in law & on facts, ignoring the facts as enumerated by the AO in details in assessment order dated 03.06.2021.*

2. *Whether in the facts and circumstances of the case, the Ld. CIT(A) has erred in law & on facts, ignored that an addition is liable to be made for the FY in which loan amount from M/s Tirupati Trading Company is received and repaid i.e. in FY 2017-18 relevant to AY 2018-19.*
  3. *Whether in the facts and circumstances of the case, the Ld. CIT(A) has erred in law & on facts, ignored that Section 68/69A/69B/69C & 69D of the Income-tax Act, 1961 does not restrict the Income Tax Department on the applicability of said section on the repayment of loan, the facts of which was misrepresented before the appellate authority by the assessee for AY 2018-19.*
  4. *Whether in the facts and circumstances of the case, the Ld. CIT(A) has erred in law & on facts, ignored that merely showing that transactions were carried out through Banking channel is not sufficient to prove the genuineness of the transaction in the matter and liable to be taxed in the year in which such repayment was made i.e. AY 2018-19. In this regard, Reliance is placed with the decision of ITAT Delhi in the matter of "Hillman Properties Pvt. Ltd. Vs ITO (ITAT Delhi)".*
  5. *Whether in the facts and circumstances of the case, the Ld. CIT(A) has erred in law & on facts, ignored that the case of the assessee would be squarely covered within Section 69A of the Income-tax Act. 1961 as genuineness of the transaction remained unproved.*
  6. *The order of the Ld. CIT(A) is perverse, erroneous and is not tenable on facts and in law."*
6. At the time of hearing, the Ld. DR brought to our notice the relevant facts in this case and submitted that the issue involved in this case is originated from Asst. Years 2016-17 and 2017-18. He relied on the findings in the assessment order and submitted that the assessee has received substantial loan and such substantial amount was disallowed in Asst. Year 2016-17 u/s 68 of the Act,

and he objected to the relief granted by the Ld. CIT(A) on such repayments of loans and prayed that addition may be sustained.

7. On the other hand, the AR submitted that the issue under consideration is squarely covered in assessee's own case for Asst. Year 2017-18 in ITA No.631/Del/2021 dated 19/06/2023. He submitted that even in the current Asst. Year under consideration the similar addition was made by the Assessing Officer u/s 69A for the reason that the assessee has returned the loan taken by the assessee in the previous Asst. Years similar to Asst. Year 2017-18. He submitted that the issue involved in Asst. Year 2016-17 is addition made u/s 68 of the Act, therefore, there is no bearing in the issue involved in current Asst. Year and he prayed that the issue may be decided by following the ITAT Order in assessee's own case.

8. Considering the rival submissions and material placed on record. We observed that in the current Asst. Year, the Assessing Officer made the addition u/s 69A as undisclosed money towards the repayment of loan taken by the assessee in the previous assessment years. The similar issue was considered by the Co-

ordinate Bench in assessee's own case for Asst. Year 2017-18. The relevant findings of the Co-ordinate Bench are as under:

*"6. We have carefully considered the orders of the authorities below. The peculiar fact of the case is that during the year the assessee has repaid the loan liability taken in earlier year amounting to Rs.15695780/-. We fail to understand once the liability has been repaid by the assessee how could it be a case of cessation of liability u/s. 41 (1) of the Act. The CIT(A) has rightly deleted the addition which calls for no interference. The appeal of the revenue is dismissed.*

Respectfully following the above decision, we observed that in the above Asst. Year 2017-18, the Assessing Officer has made the addition u/s 41(1) as cessation of liability to the extent of repayment of loan. Similarly, in the year under consideration, the Assessing Officer has made the addition u/s 69A of the Act for the same repayment of loan treating that as unexplained money. We observed from the record that the assessee has taken several loans in Asst. Year 2016-17 and in Asst. Year 2017-18, thus, issues are under litigation and the addition was made u/s 68 of the Act. The loan taken by the assessee is already considered for addition u/s 68 of the Act, for the same loan repayment, it cannot be added one more time, therefore, the action of the Assessing Officer is not justified, accordingly, the additions made by the Assessing Officer

under consideration is rightly deleted by the Ld. CIT(A) and we do not see any reason to disturb the same. Accordingly, grounds raised by the Revenue is dismissed.

9. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in open Court on 3<sup>rd</sup> May, 2024.

Sd/-

**(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Sd/-

**(S.RIFAUR RAHMAN)  
ACCOUNTANT MEMBER**

Dated: 03/05/2024

*Pk/sps*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI